

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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|------------------------------------|---|-----------------------|
| DESIREE DIPUZO, |) | |
| |) | |
| Plaintiff, |) | 2:12-CV-01498-LRH-CWH |
| |) | |
| v. |) | |
| |) | <u>ORDER</u> |
| THE VONS COMPANIES, INC.; DOES I |) | |
| through X; and ROE CORPORATIONS XI |) | |
| through XX, inclusive, |) | |
| |) | |
| Defendants. |) | |

Before the court is Defendant The Vons Companies, Inc.'s ("Defendant") Brief Regarding Amount in Controversy. Doc. #11.¹

Plaintiff, Desiree DiPuzo, ("Plaintiff") initiated the present action against defendants on July 9, 2012, in the Eighth Judicial District Court for Clark County, Nevada. On August 23, 2012, Defendant The Vons Companies, Inc. removed this action to federal court on the basis of diversity jurisdiction. Doc. #1.

On September 28, 2012, the court reviewed the removal petition and held that it was not clear from the complaint that the amount in controversy had been met. Doc. #10. The court granted Defendant twenty days to establish the amount in controversy by submitting summary judgment

¹Refers to the court's docket

1 type evidence to the court. *Id.* Thereafter, Defendant filed a supplement to its petition for removal.
2 Doc. #11.

3 The court has reviewed Defendant's Brief Regarding Amount in Controversy and finds that
4 Defendant has established that the amount in controversy has been met.

5 Where, as here, it is not facially evident from the face of the complaint that the amount in
6 controversy exceeds \$75,000, "the removing defendant bears the burden of establishing, by a
7 preponderance of the evidence, that the amount in controversy exceeds \$[75],000." *Sanchez v.*
8 *Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996). Here, Defendant contends that the
9 amount in controversy requirement is met because Plaintiff has asserted that she has incurred
10 \$103,414.00 in past medical specials, and that she will need future medical treatment of an as yet
11 undetermined amount. Plaintiff is also claiming a loss of household services and wage loss. *See*
12 Doc. #11, p2. A plaintiff's statement of damages after the filing of the complaint is relevant
13 evidence establishing the amount in controversy. *See Cohen v. Petsmart, Inc.*, 281 F.3d 837, 840
14 (9th Cir. 2002). Therefore, the court finds that Defendant has proffered sufficient evidence
15 establishing an amount in controversy greater than \$75,000. Accordingly, the court shall accept
16 Defendant's removal of this action and exercise diversity jurisdiction over the complaint.

17
18 IT IS SO ORDERED.

19 DATED this 26th day of October, 2012.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE